

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOHN HART,**

**v.**

**PENNSYLVANIA BOARD OF  
PROBATION & PAROLE, *et al.***

:  
:  
:  
:  
:  
:

**CIVIL ACTION**

**No. 10-4594**

**ORDER**

AND NOW, this 9th day of March, 2011, upon consideration of the petition for writ of habeas corpus (paper no. 1), the Report and Recommendation of United States Magistrate Judge Carol Sandra Moore Wells (paper no. 5), and petitioner's objections thereto (paper no. 6), it is **ORDERED** that:

1. Petitioner's objections to the Report and Recommendation are **GRANTED** in part and **OVERRULED** in part;
2. The Report of the Magistrate Judge is **REJECTED** insofar as it states petitioner's habeas petition is second or successive under 28 U.S.C. § 2244(b)(1);
3. The Recommendation of the Magistrate Judge is **ADOPTED** insofar as it recommends dismissing petitioner's habeas petition;
4. The petition for writ of habeas corpus is **DISMISSED FOR LACK OF JURISDICTION**;
5. Because reasonable jurists would not debate the appropriateness of the court's disposition of petitioner's habeas claim, there is no basis for the issuance of a

certificate of appealability. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000);

6. The Clerk of Court shall mark this action **CLOSED**.

/s/ Norma L. Shapiro

---

J.